

Remarks/Arguments:

Claims 1-21 are pending. Claims 2-6 and 20-21 stand rejected. Applicants acknowledge with appreciation the indication that claims 1 and 7-19 are allowed.

Applicants thank the Examiner for the courtesy extended to applicants' representative during the telephone interview of February 20, 2007. During that interview claims 2, 3, 5, 6, 20 and 21 were discussed. During the interview it was agreed that the cited references failed to disclose at least determination of a predetermined installation configuration. Applicants representative and the Examiner were unable to reach agreement on other features of the claims. The Examiner invited applicants to file this response so that the Examiner could reconsider the outstanding rejections.

Applicants note that claims 4 and 7 are rejected (see page 4 of the Office Action) as being unpatentable over Kircher et al. in view of de la Huerga. Applicants believe that this is erroneous in view of the indication on page 6 of the Office Action that claims 1 and 7-19 are allowed and the fact that claims 4 and 7 depend on allowed claim 1. Applicants will therefore conclude that the allowed claims are 1, 4 and 7-19. The Examiner is respectfully requested to clarify the status of claims 4 and 7 in the next Office Action.

Rejections Under 35 U.S.C. § 103

The Office Action sets forth at page 2, paragraph 3, "Claims 2-4, 6 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kircher et al. (US 6,975,924) in view of de la Huerga (US 7,006,894)." Applicants respectfully traverse this rejection for the reasons set forth below.

Applicants' invention, as recited in claim 2, includes features not disclosed nor suggested by Kircher or de la Huerga, namely:

...determining whether said plurality of source solutions conform to a predetermined installation configuration on said compounding device...

...at least one of providing an alert to an operator and preventing compounding based on said determining step a)...(Emphasis added)

These features are described in applicants' specification, for example at page 17, lines 20-32, page 18, lines 1-5, page 28, line 29-page 29, line 12, and page 30, lines 5-8.

The Office relies upon Kircher as disclosing "a compounding control method to prepare a compounded mixture...comprising the steps of: a) determining whether said plurality of source solutions conform to a predetermined configuration...b) **at least one** of providing an alert to an operator and preventing compounding based on said determining step a)..." (Emphasis in original) Kircher does not disclose or suggest, however, that a determination is made whether the plurality of source solutions conform to a predetermined installation configuration or that an alert is provided to the operator or the operator is prevented from compounding based on the determination of whether the plurality of source solutions conform to a predetermined installation configuration. During the telephone interview of February 20, 2007, the Examiner agreed that the cited references failed to disclose this feature. Accordingly, applicants respectfully submit that the rejection of claim 2 as being unpatentable over Kircher in view of de la Huerga is improper, should be withdrawn, and the claim allowed.

Although not identical, claims 3 and 20 recite features similar to those of claim 2 and, thus, are likewise not subject to rejection for at least the reasons set forth above with respect to claim 2.

With respect to claim 6, the Office sets forth "Kircher further discloses selecting **at least one of** an infusion ramp-up time and a ramp-down time for dispensing the compounded mixture..." Applicants respectfully disagree. There is absolutely no disclosure or suggestion in Kircher of selecting infusion ramp-up time and ramp-down time. Rather, Kircher discloses that high and low volume compounders may be utilized but is absolutely silent with respect to controlling the infusion ramp-up or ramp-down time for dispensing of a compounded mixture. Those skilled in the art are well aware of the differences between a compounder (a device that creates a compound) for an infusion pump (a device that delivers the compound to the patient). They are separate and distinct devices and cannot be substituted for one another. Applicants respectfully submit, therefore, that the rejection of claim 6 as being anticipated by the combination of Kircher and de la Huerga is improper, should be withdrawn, and the claim allowed.

With respect to claims 4 and 7, applicants submit that the rejection is improper in view of the dependency on allowed claim 1 as well as the indication on the Office Action Summary as well as page 6 of the Office Action that claims 1 and 7-19 are allowed. Applicants respectfully request, therefore, that the rejection of claims 4 and 7 be withdrawn.

Although not identical, claim 21 recites features similar to those of claim 6 and, thus are likewise not subject to rejection for at least the reasons set forth above with respect to claim 6.

The Office Action at page 5, sets forth "Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kircher et al...and de la Huega...and further in view of Martucci et al. (US 5,927,349)." Applicants respectfully traverse this rejection for the reasons set forth below.

Applicants' invention as recited in claim 5, includes features not disclosed or suggested in the cited references, namely:

...selecting an infusion pump type for dispensing the compounded mixture prior to beginning compounding of the compounded mixture.
(Emphasis added)

These features are described in applicants' specification, for example, at page 55, line 18 through page 56, line 7.

The Office Action readily admits that Kircher and de la Huega fail to disclose or suggest selecting an infusion pump type for dispensing the compounded mixture prior to beginning compounding of the compounded mixture. The Office relies on Martucci as "[disclosing] selecting an infusion pump type for dispensing the compounded mixture prior to beginning compounding the compounded mixture (Col. 5, line 57 to Col. 6, line 3)." Applicants respectfully disagree with this interpretation of Martucci. According to Martucci, a remote controller 80 is coupled to controller 48 which in turn controls pumps 26-36 of compounder 10. Martucci also discloses that a patient ID may be displayed on the control panel 50 utilizing the volume to be delivered and identification of the collection container 18 may be displayed on the container ID display 76. There is absolutely no disclosure or suggestion, however, of selecting an infusion pump type for dispensing the compounded mixture prior to the beginning of compounding of the compounded mixture. Once again, applicants respectfully point out that there is a difference between a compounder and an infusion pump (as noted above). Applicants respectfully submit, therefore, that the rejection of claim 5 as being unpatentable over Kircher and de la Huerga and in further view of Martucci et al. is improper, should be withdrawn and the claim allowed.

Although not identical, claim 21 recites features similar to those of claim 5 and, thus, is likewise not subject to rejection for at least the reasons set forth above with respect to claim 5.

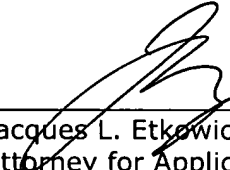
Application No.: 10/728,560
Response dated February 23, 2007
Reply to Office Action of December 18, 2006

BBM-103US

In view of the remarks set for above, applicants submit that the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

RatnerPrestia



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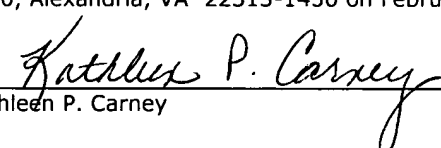
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The Director is hereby authorized to charge or credit Deposit Account No. **18-0350** for any additional fees, or any underpayment or credit for overpayment in connection herewith.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 23, 2007.



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